

# Notice of Allowability

Application No.

09/719,457

Examiner

Hong Liu

Applicant(s)

THURIEAU ET AL.

Art Unit

1624

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed on 01/07/04.
2. ☒ The allowed claim(s) is/are 24,27 and 28.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.
5. ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
  - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No. \_\_\_\_\_.
  - (b) ☐ including changes required by the proposed drawing correction filed \_\_\_\_\_, which has been approved by the Examiner.
  - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the margin according to 37 CFR 1.121(d).

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

- |  |   |
|--|---|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)          |
| 2 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                    | 6 <input type="checkbox"/> Interview Summary (PTO-413), Paper No. _____.            |
| 3 <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No. _____  | 7 <input type="checkbox"/> Examiner's Amendment/Comment                             |
| 4 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8 <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
|  | 9 <input type="checkbox"/> Other  |

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**EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37

CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Alan Feeney on 01/06/04.

In claim 1, after the word "wherein" and before the word "Z<sup>3</sup>", insert

R<sup>3</sup> is -(CH<sub>2</sub>)<sub>m</sub>-E-(CH<sub>2</sub>)<sub>n</sub>-Z<sup>2</sup>;

E is O, S, -C(O)-, -C(O)-O-, -NH-C(O)-O-, -N-(C<sub>1</sub>-C<sub>8</sub>)alkyl-C(O)-O- or a bond;

Z<sup>2</sup> is H, (C<sub>1</sub>-C<sub>12</sub>)alkyl, amino, (C<sub>1</sub>-C<sub>12</sub>)alkylamino, N,N-di-(C<sub>1</sub>-C<sub>12</sub>)alkylamino, (C<sub>1</sub>-C<sub>12</sub>)alkylguanidino, or an unsubstituted or substituted moiety selected from the group consisting of phenyl, indolyl, imidazolyl, thiophene, benzothiophene, pyridyl and naphthyl;

Delete claims 1-23 and 29-43, including withdrawn claims 4, 8, 10, 12-21, 29, 31-32, and 34-43.

### **REASONS FOR ALLOWANCE**

Claims 24, 27, and 28 are allowed.

The following is an examiner's statement of reasons for allowance:

The closest reference of record is WO 98/27108. The reference teaches heterocyclic derivatives, their process and use. See formula I, page 2. The instantly claimed compounds differ from the reference compounds in the substituents at 2-position of the imidazole core. It contains a urea moiety in the instant invention whereas there is no disclosure of such a moiety in the corresponding functional group in the reference. A urea moiety and a functional group other than a urea moiety are not art recognized equivalents and therefore, one skilled in the art would not have been motivated to modify the teachings of the reference. Thus, the reference alone does not teach or fairly suggest the instantly claimed compounds and therefore, the instantly claimed compounds are deemed to be novel and patentably distinct.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication should be directed to Examiner Hong Liu whose telephone number is (703) 306-5814. If attempts to reach the examiner by the phone are unsuccessful, the examiner's supervisor, Mukund Shah can be reached at (703) 308-4716. The fax phone number for this group is (703) 308-4734 for "unofficial" purposes and the actual number for official business is (703) 308-4556. Any inquiry of a general nature or relating to the

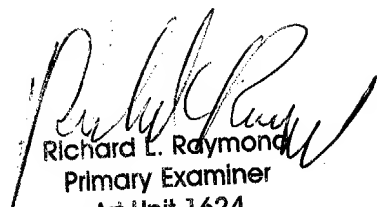
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status of this application or proceeding should be directed to the Group receptionist whose number is (703) 308-1235.

Hong Liu  
January 8, 2004



Richard L. Raymond  
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Art Unit 1624  
Mukund Shan  
Supervisory Patent Examiner  
Art Unit 1624